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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,425	08/30/2005	Stefan Tumback	10191/3689	5765
26646 7590 06/30/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER AVERY, BRIDGET D				
ART UNIT 3618		PAPER NUMBER		
MAIL DATE 06/30/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/525,425

**Applicant(s)**

TUMBACK ET AL.

**Examiner**

BRIDGET AVERY

**Art Unit**

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-28, 30, 31 and 33-36 is/are rejected.
- 7) ☒ Claim(s) 29 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 2/23/05, 11/13/07, 6/20/08
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 19-28, 30, 31 and 33-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinz et al. WO 99 21261 A.

Heinz et al. teaches a hybrid drive system for a motor vehicle, comprising:  
an internal combustion engine having a drive shaft and an engine management system;  
and at least one speed-controlled electric machine coupled to the drive shaft of the internal combustion engine during idling; wherein, during idling, the engine management system controls the internal combustion engine in one of open and closed loop as a function of power demands Of an electrical system of the motor vehicle; a system for determining the power demands of the electrical system of the motor vehicle during idling; the system for determining the power demands of the electrical system of the motor vehicle during idling includes at least one device for at least one of measuring a terminal voltage and determining a state of charge of a battery of the motor vehicle; the system for determining the power demands of the electrical system of the motor vehicle during idling includes at least one device for detecting turned-on loads associated with the electrical system and calculating a nominal power of the turned-on loads; a pre-control unit for converting the power demands of the electrical system of the motor

vehicle during idling into one of a desired torque and a setpoint torque of the internal combustion engine; at least one device for measuring a power output of the at least one speed-controlled electric machine; the system for determining the power demands of the electrical system of the motor vehicle includes a comparator device for comparing a power output of the at least one speed-controlled electric machine calculated from the power demands of the electrical system and a measured power output of the at least one speed-controlled electric machine; a slow controller for adjusting one of the desired torque and the setpoint torque of the internal combustion engine depending on an output variable of the comparator device. The method for idle speed control of a hybrid drive or a motor vehicle is also taught.

#### ***Allowable Subject Matter***

2. Claims 29 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kawakatsu shows a control apparatus for engine/electric hybrid vehicle.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIDGET AVERY whose telephone number is

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(571)272-6691. The examiner can normally be reached on Monday-Thursday from 8:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis, can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher P Ellis/  
Supervisory Patent Examiner, Art  
Unit 3618

/Bridget Avery/

Examiner, Art Unit 3618